

REMARKS

Pursuant to the notice of Non-Compliance dated 12/09/03, Applicants are amending the amendment that was sent on 11/12/2003 in response to the office action dated 10/27/2003. Amendments to the specifications and the claims have been made to comply with the Non-Compliance notice. Claims have been re-numbered to reflect the original numbering in the parent application. In the preliminary amendment dated 03/29/2001, Applicants canceled claims 1-17 and 20-21 without prejudice. Applicants elected claims 18 and 19 and added claims 22-47 to pursue in this divisional application. Claims 18-19 and 22-47 remain.

In this amendment, Claims 33 and 36 are canceled (duplicate of claim 32); and claims 48-49 are added. Minor typographical errors in Specification are corrected.

Because Examiner rejects under 35USC102e claims 18-19 and 22-47 per Fan US.5959577, and claims 18-19, and 46-47 per Karmel US.6111441, Applicants amend claims 18, 46 and 47 to define that “... the second transaction message is caused to be sent adaptively by software that matches a mobile buyer interest with a fixed vendor service or product by using past movement or location pattern of the mobile buyer, thereby facilitating local transaction efficiently between the mobile buyer and a nearby vendor.” Support appears in Specification page 24, lines 7-11; page 25, lines 20-28; and page 34, lines 16-18.

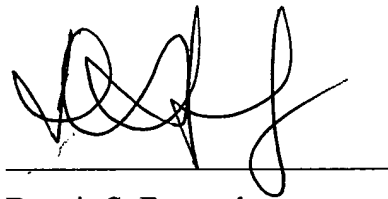
Cited references neither suggest nor disclose separately or in combination method or software for adaptive transaction between mobile buyer and local vendor(s), particularly considering past movement pattern of the mobile buyer, which advantageously enable efficient

mapping of product or service locally where the mobile buyer has a history of conveniently passing by appropriate vendors.

New claims 48-49 specify other novel elements. Support appears in Specification page 27, lines 9-17.

Applicants submit that claims are in allowance condition, and respectfully request rejections be reconsidered and withdrawn.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dennis S. Fernandez', written over a horizontal line.

Dennis S. Fernandez

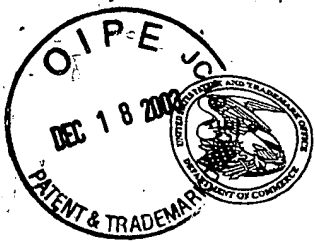
Reg. No. 34,160

Date: 12/18/03

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09/823,508	03/29/2001	Dennis Sunga Fernandez	FERN-P001E	9844
22877 7590 12/09/2003				
FERNANDEZ & ASSOCIATES LLP				
1047 EL CAMINO REAL				
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			EXAMINER	
			VO, TUNG T	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 12/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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DEC 29 2003

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DOCKETED
DATE: 12/16/03

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Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

09/8235

The amendment document filed on _____ is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following omission(s) or provision is required. Only the section (1.121(h)) of the amendment document containing the omission or non-compliant provision must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.

THE FOLLOWING CHECKED (X) ELEMENTS(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☒ 1. Amendments to the specification:

- ☒ A. Amended paragraph(s) do not include markings.
☐ B. New paragraph(s) should not be underlined.
☐ C. Other _____

☐ 2. Abstract:

- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
☐ B. Other _____

☐ 3. Amendments to the drawings: _____

☒ 4. Amendments to the claims:

- ☒ A. A complete listing of all of the claims is not present.
☒ B. The listing of claims does not include the text of all claims (incl. withdrawn claims)
☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
☒ D. The claims of this amendment paper have not been presented in ascending numerical order.
☒ E. Other: New claims should be presented with the next

highest consecutive number (1-21 add 22-?)
For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION**, and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Legal Instruments Examiner (LIE)

July 22, 2003 (rev.)

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